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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,545	08/09/2001	Peter Schlemm	A-2812	6082
24131 7590 01/25/2007 LERNER GREENBERG STEMER LLP P O BOX 2480 HOLLYWOOD, FL 33022-2480			EXAMINER GUTIERREZ, ANTHONY	
			ART UNIT	PAPER NUMBER
			2857	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/25/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/927,545

Applicant(s)

SCHLEMM

Examiner

Anthony Gutierrez

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

A process is statutory if it requires physical acts to be performed outside the computer independent of and following the steps to be performed by a programmed computer, where those acts involve the manipulation of tangible physical objects and result in the object having a different physical attribute or structure (see MPEP 2106). A claim is limited to a practical application when the method, as claimed, produces a concrete, tangible and useful result; i.e., the method recites a step or act of producing something that is concrete, tangible and useful. Referring to the "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" in determining whether the claim is for a "practical application," the focus is not on whether the steps taken to achieve a particular result are useful, tangible and concrete, but rather that the final result achieved by the claimed invention is "useful, tangible and concrete." (<http://www.uspto.gov/web/offices/com/sol/og/2005/week47/patgupa.htm>)

Claims 1-8 are drawn to a method. Claims 9-16 are drawn to a device. Due to the nature of Applicant's specified invention, the claimed device can be representative of a computer readable medium containing instruction codes that when executed

Art Unit: 2857

perform a given method. Therefore all claims must produce a useful concrete and tangible result.

The claims produce and output an output signal, but only when an error mode is switched on. Therefore when the no error mode is switched on, no output signal is produced to be output and thus the claims in this case are drawn merely to checking whether an output mode is switch on. In this case, no information is presented to a user nor does a physical transformation occur outside the processing unit as a result. The claims therefore are not drawn such that they always produce a tangible result.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohwada (U.S. Patent No. 4,443,849) in view of Lytel et al. (U.S. Patent No. 5,039,189).

As to claims 1, 6, and 9, Ohwada discloses a method of executing method steps with an apparatus, with the method comprising: enabling the apparatus for switching an error mode on or off (the apparatus starts in a normal mode and switches to an error mode when an error takes place in one of the package units, thus switching the error mode on) and checking whether an error mode is switched on (col. 4, lines 23-29, col.

5, line 58-col. 6, line 5 and col. 4, lines 47-52); and producing an output signal in a method step and outputting the output signal only if the error mode is switched on (col. 7, lines 43-51). The error signal ER is only produced and sent out when an error is detected. An error mode is switched on only when an error is detected. Therefore if the error mode is not switched on, it will be because no error has been detected, and thus there will be no output signal to output.

While Ohwada discloses that the invention relates to an error recovery system for use in an electronic digital computer system comprising a plurality of processors (col. 1, lines 9-11), Ohwada does not specifically teach that the output signal is output as at least one of an optical or acoustic signal.

Lytel et al., however, teaches a method for converting electrical signals into optical signals (col. 1, lines 7-11). Lytel et al. also teaches that existing microelectronics can produce high-speed integrated circuits that are capable of operating at high frequencies (col. 1, lines 15-17). Lytel further teaches that converting electrical signals into optical signals provides numerous benefits (col. 2, lines 3-12).

It therefore would have been obvious to one of ordinary skill in the art at the time of invention to implement the signal transmissions between processors disclosed by Ohwada, through optical signals as taught by Lytel et al. in order to lower noise, propagation delay, power dissipation, and increase packing density, so that the speed of processing can be reliably increased.

As to claims 2-5, and 10-13, Ohwada further discloses wherein the method steps are divided into modules, and the method comprises changing from one module to another module during the execution of the method steps, and wherein the output

signal comprises an identifier indicating in which module the output signal was produced (col. 5, lines 8-15 and col. 12, lines 44-51).

As to claims 7, 8, 14, and 15, Ohwada further discloses wherein the output signal is stored in a storage device, together with an indication of a time at which the output signal was stored (col. 7, line 58-col. 8, line 11).

As to claim 16, Ohwada further discloses input means configured to enable selective switching on and switching off of the error mode even during the execution of the method steps (col. 6, lines 40-50).

Response to Arguments

5. With respect to Applicant's arguments regarding the newly amended claim limitation of "not outputting the output signal if the error mode is not switched on", the Examiner maintains that this language does not overcome the rejection under 35 USC 101, as the claimed invention would still function consistent with the invention before amendment and as such, when the error mode is not switched on, no signal is output, with the result of the claim being "checking whether the error mode is switched on" which itself is not a tangible result.

With respect to Applicant's arguments regarding enabling the apparatus for switching an error mode on or off, the Examiner disagrees with the Applicant and has provided further explanation in the rejection above, how the "error mode" is "switched on".

With respect to outputting the signal as at least one of an optical or acoustic signal, the Examiner has provided new grounds of rejection to more clearly address this limitation.

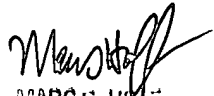
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Gutierrez whose telephone number is (571) 272-2215. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on (571) 272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Anthony Gutierrez
1/22/07


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